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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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OFFICE OF THE SECRETARY

Jurisdictional Separations  
Reform and Referral to the  
Federal-State Joint Board

CC Docket No. 80-286  
DA No. 99-414

AT&T COMMENTS ON STATE JOINT BOARD MEMBERS' REPORT

Pursuant to the Commission's Public Notice, released February 26, 1998 (DA 99-414), and Section 1.415 of the Commission's Rules, AT&T Corp. ("AT&T") submits these comments on the Report filed by the State Members of the Joint Board on Comprehensive Review of Separations ("Report") in the above-captioned docket.<sup>1</sup>

AT&T agrees with the basic premise of the State Members' Report, namely, that the local exchange and exchange access markets are still not competitive and therefore market forces are insufficient to control incumbent local exchange carrier ("ILEC") pricing of regulated services. As such, a jurisdictional separations process must remain in place to limit incumbents' ability to act on their incentives to

<sup>1</sup> Jurisdictional Separations Reform and Referral to the Federal-State Joint Board, Notice of Proposed Rulemaking, CC Docket No. 80-286, 12 FCC Rcd 22120, 22132, para. 21 (1997) ("Notice"). In the Notice, the Commission had invited the State Members of the Joint Board to develop a report identifying issues and subjects to address in a Further Notice.

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over-allocate costs to either the state or federal jurisdictions, depending on current market conditions. A separations process is also necessary to ensure the appropriate division of costs between the federal and state jurisdictions. This remains true even under price cap regulation, for example, to set the proper productivity measurements.

Contrary to the Report's suggestion, separations reform to deal with potential confiscation issues is unnecessary. In fact, ILEC confiscation claims could be handled under the existing separations process, as is contemplated under various states' plans to deal with these types of issues.<sup>2</sup> In all events, it would be unwise to embark on time-consuming comprehensive separations reform to anticipate claims that may never arise. Should such claims be made, regulators could then determine whether they are to be addressed by federal or state regulators, or both.

The State Members also suggest that the Commission should adopt some sort of transition plan pending comprehensive separations reform. AT&T strongly opposes adoption of any transition plan unless and until the separations process is, in

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<sup>2</sup> See, e.g., In The Matter Of The Investigation On The Commission's Own Motion Into Any And All Matters Relating To Access Charge Reform And Universal Service Reform Including, But Not Limited To, High Cost Or Universal Service Funding Mechanisms Relative To Telephone And Telecommunications Services Within The State Of Indiana Pursuant To: I.C. 8-1-2-51, 58,59,69;8-1-2.6 et seq., And Other Related State Statutes, As Well As The Federal Telecommunications Act Of 1996 (47 U.S.C.Sec. 151, et seq.), Cause No. 40785. Approved: Oct. 28, 1998.

fact, modified. In the absence of direction, these transition plans tend to remain in place and become the *de facto* rule. As such, they tend to impede, rather than facilitate, true reform measures.

The only separations changes that are currently needed are those that AT&T had identified in its December 10, 1997 Comments in this proceeding. Specifically, the full embedded cost of unbundled network elements ("UNEs") and interconnection should be removed pre-separations because, under the scheme created by the 1996 Telecommunications Act, ILECs will recover the full economic cost of interconnection and any unbundled element that an entrant leases. Moreover, if the costs associated with UNEs and interconnection are not pulled out pre-separations based on embedded cost, ILECs could continue to overstate their access rates while pricing UNEs and interconnection at total element long-run incremental cost ("TELRIC"). The solution is to treat UNE and interconnection costs analogous to the ways costs associated with deregulated services are treated and remove them from the cost base of regulated operations pre-separations.

Second, as AT&T showed, all "hidden" plant investment for the purpose of supporting services, such as ILEC long distance services, should be removed from the regulated books and moved to the ILECs' long distance operating affiliates. Enforcement of the principle that the ILECs may only recover the cost of investment "used and useful" in providing regulated services has become all the more imperative today with the

recent revelation that the Regional Bell Operating Companies ("RBOCs") cannot locate approximately \$5 billion of plant currently on their books.<sup>3</sup>

Third, as AT&T showed, approximately \$591 million of marketing expense is recovered from interstate carrier access, even though ILECs do not actively market or advertise their exchange access services. And, the current rules overallocate approximately \$167 million of customer services expenses to interstate carrier access. Removal of these costs from the interstate jurisdiction will promote efficient investment without preventing ILECs from recovering all of their legitimate interstate costs.

Finally, the Commission should allocate loop costs to the interstate jurisdiction according to relative interstate minutes of use, which would result in approximately a 15 percent allocation instead of the current 25 percent. This will tend to minimize the significant over-allocation that exists today.

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<sup>3</sup> See FCC News, FCC Releases Audit Reports on RBOCs' Property Records, Report No. CC 99-3, February 25, 1999.

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**CONCLUSION**

For the reasons stated above, the Commission should not adopt a transition plan and should undertake to reform the separations process in the limited manner discussed herein and in AT&T's December 10, 1997 Comments.

Respectfully submitted,

AT&T CORP.

By /s/



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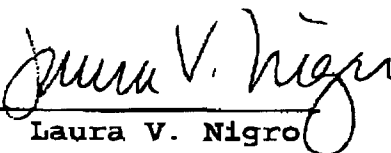
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March 30, 1999

**CERTIFICATE OF SERVICE**

I, Laura V. Nigro, do hereby certify that on this 30th day of March, 1999, a copy of the foregoing "AT&T Comments on State Joint Board Members' Report" was served via U.S. first class mail, postage prepaid, to the parties on the attached Service List.

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